



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CTS/149370

PRELIMINARY RECITALS

Pursuant to a petition filed May 14, 2013, under Wis. Stat. § 227.42, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on June 18, 2013, at Milwaukee, Wisconsin. The record was held open for 7 days post-hearing to allow the Petitioner to submit additional information. No additional information was received and the record closed on June 25, 2013.

The issue for determination is whether the Petitioner's appeal is timely and, if so, whether the agency properly reduced the Petitioner's Caretaker Supplement (CTS) benefits effective May 1, 2012.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Katherine May
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On March 29, 2012, a FoodShare (FS) renewal was completed for the father of Petitioner's minor child (RW). He reported at that time that he resided with the Petitioner at [REDACTED] Ave., Milwaukee, WI 53225. His FS case was closed and he was added to the Petitioner's household effective May 1, 2012.
3. On March 30, 2012, the agency issued a Notice of Decision to the Petitioner at [REDACTED] Ave., Milwaukee, WI 53225 informing her that her CTS benefits for RW would end effective May 1, 2012. The basis for the termination was that RW does not receive SSI and the minor child of RW and Petitioner was no longer eligible for CTS benefits. The Notice also informed the Petitioner of the right to appeal the decision regarding CTS benefits by filing an appeal no later than June 18, 2012. A Notice of Decision was also issued to RW at [REDACTED] Ave., Milwaukee, WI 53225 on March 30, 2012 regarding changes to his FS and health care benefits.
4. On October 6, 2012, the Petitioner submitted a Six Month Report Form and reported RW as a member of her household.
5. On May 14, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

A hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by an agency concerning CTS benefits must be filed within 45 days of the date of the action. CTS Handbook § 4.7 and Wis. Stats. Section 49.45(5). The Petitioner's appeal was filed 378 days after the date of the action. The Petitioner indicated no good cause for not filing in a timely manner. At the hearing, she testified that she was residing at the address to which the notice was sent on March 30, 2012. She also testified that her son was hospitalized in June, 2012 which may have prevented her from submitting a timely appeal. The record was held open at the Petitioner's request to submit additional information regarding her son's hospitalization. No additional information was received. Thus, the appeal is untimely, and no jurisdiction exists for considering the merits of the case.

CONCLUSIONS OF LAW

The Petitioner's appeal is untimely.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

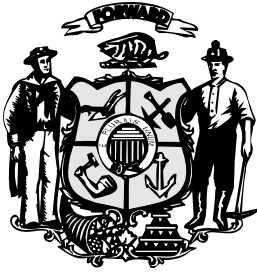
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 30th day of August, 2013

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 30, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability